

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	3

MR. SPEAKER:

Your Committee on **Insurance, Corporations and Small Business**, to which was referred Senate Bill 251, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-10-8-2.8 IS ADDED TO THE INDIANA CODE
- 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5 1, 2004]: **Sec. 2.8. (a) As used in this section, "pilot project" refers**
- 6 **to the school corporation health benefit pilot project established**
- 7 **by the state personnel department under subsection (d).**
- 8 **(b) As used in this section, "state employee health plan"**
- 9 **means:**
- 10 **(1) the self-insurance program established by the state**
- 11 **personnel department under section 7(b) of this chapter; or**
- 12 **(2) a contract with a prepaid health care delivery plan**
- 13 **entered into by the state personnel department under section**
- 14 **7(c) of this chapter.**
- 15 **(c) Notwithstanding any other provision of this chapter to the**

contrary, and notwithstanding IC 20-5-2-2(14), a school corporation may:

- (1) apply to participate in the pilot project; and
- (2) if chosen by the department of insurance, participate in the pilot project.

(d) The state personnel department, in cooperation with the department of insurance, shall develop and implement a school corporation health benefit pilot project. The pilot project:

- (1) must enable ten (10) school corporations that:

- (A) apply for participation in the project; and

- (B) are chosen by the department of insurance;

to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan that covers active state employees and is chosen by the school corporation; and

- (2) must be established not later than January 1, 2005.

(e) The pilot project must do the following:

- (1) Specify participation requirements, including minimum participation and contribution requirements, and an application process for school corporations that wish to apply.

- (2) Provide for the department of insurance to choose ten (10) eligible school corporations for participation in the project.

- (3) Provide for enrollment of the active and retired employees of the participating school corporations in a state employee health plan not later than June 30, 2005.

- (4) Provide for coverage of the active and retired employees of the participating school corporations under the state employee health plan until a date not earlier than June 30, 2010, and not later than December 31, 2010.

- (5) Require the state personnel department to provide to the legislative council in an electronic format under IC 5-14-6:

- (A) an annual report not later than July 1 of each year; and

- (B) a final report, including aggregate information, not

1 **later than July 1, 2011;**
 2 **concerning the effect of the participation in the state**
 3 **employee health plan by the active and retired employees of**
 4 **the school corporation employees, including the effect on**
 5 **premium rates, costs to the state and to the school**
 6 **corporations, and any other information determined relevant**
 7 **by the legislative council.**

8 **(6) Conclude insurance coverage not later than December 31,**
 9 **2010.**

10 **(f) A school corporation that participates in the pilot project**
 11 **under this section shall provide for payment of the premium for**
 12 **the coverage as provided in section 2.6 of this chapter. The state**
 13 **shall not pay any part of the premium for the coverage. The**
 14 **administrator of the state employee health plan described in**
 15 **subsection (b)(1) shall not pay any part of the administrative cost**
 16 **or other costs of the coverage.**

17 **(g) The state personnel department may adopt rules under**
 18 **IC 4-22-2 to implement this section.**

19 **(h) This section expires December 31, 2011.**

20 SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
 21 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted
 23 gross income" shall mean the following:

24 (a) In the case of all individuals, "adjusted gross income" (as defined
 25 in Section 62 of the Internal Revenue Code), modified as follows:

26 (1) Subtract income that is exempt from taxation under this article
 27 by the Constitution and statutes of the United States.

28 (2) Add an amount equal to any deduction or deductions allowed
 29 or allowable pursuant to Section 62 of the Internal Revenue Code
 30 for taxes based on or measured by income and levied at the state
 31 level by any state of the United States.

32 (3) Subtract one thousand dollars (\$1,000), or in the case of a
 33 joint return filed by a husband and wife, subtract for each spouse
 34 one thousand dollars (\$1,000).

35 (4) Subtract one thousand dollars (\$1,000) for:

36 (A) each of the exemptions provided by Section 151(c) of the

- 1 Internal Revenue Code;
- 2 (B) each additional amount allowable under Section 63(f) of the
- 3 Internal Revenue Code; and
- 4 (C) the spouse of the taxpayer if a separate return is made by
- 5 the taxpayer and if the spouse, for the calendar year in which
- 6 the taxable year of the taxpayer begins, has no gross income
- 7 and is not the dependent of another taxpayer.

8 (5) Subtract:

- 9 (A) one thousand five hundred dollars (\$1,500) for each of the
- 10 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 11 Revenue Code for taxable years beginning after December 31,
- 12 1996; and
- 13 (B) five hundred dollars (\$500) for each additional amount
- 14 allowable under Section 63(f)(1) of the Internal Revenue Code
- 15 if the adjusted gross income of the taxpayer, or the taxpayer
- 16 and the taxpayer's spouse in the case of a joint return, is less
- 17 than forty thousand dollars (\$40,000).

18 This amount is in addition to the amount subtracted under
19 subdivision (4).

20 (6) Subtract an amount equal to the lesser of:

- 21 (A) that part of the individual's adjusted gross income (as
- 22 defined in Section 62 of the Internal Revenue Code) for that
- 23 taxable year that is subject to a tax that is imposed by a political
- 24 subdivision of another state and that is imposed on or measured
- 25 by income; or
- 26 (B) two thousand dollars (\$2,000).

27 (7) Add an amount equal to the total capital gain portion of a lump
28 sum distribution (as defined in Section 402(e)(4)(D) of the
29 Internal Revenue Code) if the lump sum distribution is received by
30 the individual during the taxable year and if the capital gain portion
31 of the distribution is taxed in the manner provided in Section 402
32 of the Internal Revenue Code.

33 (8) Subtract any amounts included in federal adjusted gross
34 income under Section 111 of the Internal Revenue Code as a
35 recovery of items previously deducted as an itemized deduction
36 from adjusted gross income.

37 (9) Subtract any amounts included in federal adjusted gross

1 income under the Internal Revenue Code which amounts were
2 received by the individual as supplemental railroad retirement
3 annuities under 45 U.S.C. 231 and which are not deductible under
4 subdivision (1).

5 (10) Add an amount equal to the deduction allowed under Section
6 221 of the Internal Revenue Code for married couples filing joint
7 returns if the taxable year began before January 1, 1987.

8 (11) Add an amount equal to the interest excluded from federal
9 gross income by the individual for the taxable year under Section
10 128 of the Internal Revenue Code if the taxable year began before
11 January 1, 1985.

12 (12) Subtract an amount equal to the amount of federal Social
13 Security and Railroad Retirement benefits included in a taxpayer's
14 federal gross income by Section 86 of the Internal Revenue Code.

15 (13) In the case of a nonresident taxpayer or a resident taxpayer
16 residing in Indiana for a period of less than the taxpayer's entire
17 taxable year, the total amount of the deductions allowed pursuant
18 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
19 which bears the same ratio to the total as the taxpayer's income
20 taxable in Indiana bears to the taxpayer's total income.

21 (14) In the case of an individual who is a recipient of assistance
22 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or
23 IC 12-15-7, subtract an amount equal to that portion of the
24 individual's adjusted gross income with respect to which the
25 individual is not allowed under federal law to retain an amount to
26 pay state and local income taxes.

27 (15) In the case of an eligible individual, subtract the amount of a
28 Holocaust victim's settlement payment included in the individual's
29 federal adjusted gross income.

30 (16) For taxable years beginning after December 31, 1999,
31 subtract an amount equal to the portion of any premiums paid
32 during the taxable year by the taxpayer for a qualified long term
33 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
34 taxpayer's spouse, or both.

35 (17) Subtract an amount equal to the lesser of:

36 (A) for a taxable year:

37 (i) including any part of 2004, the amount determined under

- 1 subsection (f); and
- 2 (ii) beginning after December 31, 2004, two thousand five
- 3 hundred dollars (\$2,500); or
- 4 (B) the amount of property taxes that are paid during the
- 5 taxable year in Indiana by the individual on the individual's
- 6 principal place of residence.
- 7 (18) Subtract an amount equal to the amount of a September 11
- 8 terrorist attack settlement payment included in the individual's
- 9 federal adjusted gross income.
- 10 (19) Add or subtract the amount necessary to make the adjusted
- 11 gross income of any taxpayer that owns property for which bonus
- 12 depreciation was allowed in the current taxable year or in an earlier
- 13 taxable year equal to the amount of adjusted gross income that
- 14 would have been computed had an election not been made under
- 15 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
- 16 bonus depreciation to the property in the year that it was placed in
- 17 service.
- 18 **(20) In the case of an individual who is employed by a**
- 19 **taxpayer that claims a credit under IC 6-3.1-25-9, add the**
- 20 **amount of the individual's eligible benefits as provided in**
- 21 **IC 6-3.1-25-15(a).**
- 22 (b) In the case of corporations, the same as "taxable income" (as
- 23 defined in Section 63 of the Internal Revenue Code) adjusted as follows:
- 24 (1) Subtract income that is exempt from taxation under this article
- 25 by the Constitution and statutes of the United States.
- 26 (2) Add an amount equal to any deduction or deductions allowed
- 27 or allowable pursuant to Section 170 of the Internal Revenue
- 28 Code.
- 29 (3) Add an amount equal to any deduction or deductions allowed
- 30 or allowable pursuant to Section 63 of the Internal Revenue Code
- 31 for taxes based on or measured by income and levied at the state
- 32 level by any state of the United States.
- 33 (4) Subtract an amount equal to the amount included in the
- 34 corporation's taxable income under Section 78 of the Internal
- 35 Revenue Code.
- 36 (5) Add or subtract the amount necessary to make the adjusted
- 37 gross income of any taxpayer that owns property for which bonus

depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

1 (3) Add an amount equal to a deduction allowed or allowable
2 under Section 805 or Section 831(c) of the Internal Revenue Code
3 for taxes based on or measured by income and levied at the state
4 level by any state.

5 (4) Subtract an amount equal to the amount included in the
6 company's taxable income under Section 78 of the Internal
7 Revenue Code.

8 (5) Add or subtract the amount necessary to make the adjusted
9 gross income of any taxpayer that owns property for which bonus
10 depreciation was allowed in the current taxable year or in an earlier
11 taxable year equal to the amount of adjusted gross income that
12 would have been computed had an election not been made under
13 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
14 bonus depreciation to the property in the year that it was placed in
15 service.

16 (e) In the case of trusts and estates, "taxable income" (as defined for
17 trusts and estates in Section 641(b) of the Internal Revenue Code)
18 adjusted as follows:

19 (1) Subtract income that is exempt from taxation under this article
20 by the Constitution and statutes of the United States.

21 (2) Subtract an amount equal to the amount of a September 11
22 terrorist attack settlement payment included in the federal adjusted
23 gross income of the estate of a victim of the September 11
24 terrorist attack or a trust to the extent the trust benefits a victim
25 of the September 11 terrorist attack.

26 (3) Add or subtract the amount necessary to make the adjusted
27 gross income of any taxpayer that owns property for which bonus
28 depreciation was allowed in the current taxable year or in an earlier
29 taxable year equal to the amount of adjusted gross income that
30 would have been computed had an election not been made under
31 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
32 bonus depreciation to the property in the year that it was placed in
33 service.

34 (f) This subsection applies only to the extent that an individual paid
35 property taxes in 2004 that were imposed for the March 1, 2002,
36 assessment date or the January 15, 2003, assessment date. The
37 maximum amount of the deduction under subsection (a)(17) is equal to

the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 3. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 25. Credit for Offering Health Benefit Plans

Sec. 1. This chapter applies to an employer that:

- (1) employs at least ten (10) full-time employees who are located in Indiana; and**
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).**

Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums withheld from the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the taxable year for which the taxpayer claims a credit under this chapter.

1 **Sec. 4. As used in this chapter, "full-time employee" means an**
 2 **employee who is normally scheduled to work at least thirty (30)**
 3 **hours each week.**

4 **Sec. 5. (a) As used in this chapter, "health benefit plan" means**
 5 **coverage for health care services provided under:**

6 **(1) an insurance policy that provides one (1) or more of the**
 7 **types of insurance described in Class 1(b) or Class 2(a) of**
 8 **IC 27-1-5-1; or**

9 **(2) a contract with a health maintenance organization for**
 10 **coverage of basic health care services under IC 27-13;**
 11 **that satisfies the requirements of Section 125 of the Internal**
 12 **Revenue Code.**

13 **(b) The term does not include the following:**

14 **(1) Accident only, credit, dental, vision, Medicare**
 15 **supplement, long term care, or disability income insurance.**

16 **(2) Coverage issued as a supplement to liability insurance.**

17 **(3) Automobile medical payment insurance.**

18 **(4) A specified disease policy issued as an individual policy.**

19 **(5) A limited benefit health insurance policy issued as an**
 20 **individual policy.**

21 **(6) A short term insurance plan that:**

22 **(A) may not be renewed; and**

23 **(B) has a duration of not more than six (6) months.**

24 **(7) A policy that provides a stipulated daily, weekly, or**
 25 **monthly payment to an insured during hospital confinement,**
 26 **without regard to the actual expense of the confinement.**

27 **(8) Worker's compensation or similar insurance.**

28 **(9) A student health insurance policy.**

29 **Sec. 6. As used in this chapter, "pass through entity" means:**

30 **(1) a corporation that is exempt from the adjusted gross**
 31 **income tax under IC 6-3-2-2.8(2);**

32 **(2) a partnership;**

33 **(3) a limited liability company; or**

34 **(4) a limited liability partnership.**

35 **Sec. 7. As used in this chapter, "state tax liability" means a**

1 taxpayer's total tax liability that is incurred under:

2 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);

3 (2) IC 6-5.5 (financial institutions tax); and

4 (3) IC 27-1-18-2 (insurance premiums tax);

5 as computed after the application of the credits that under
6 IC 6-3.1-1-2 are to be applied before the credit provided by this
7 chapter.

8 Sec. 8. As used in this chapter, "taxpayer" means an individual
9 or entity that:

10 (1) has state tax liability; and

11 (2) employs at least ten (10) full-time employees who are
12 located in Indiana.

13 Sec. 9. (a) An eligible taxpayer that, after December 31, 2004,
14 makes health insurance available to the eligible taxpayer's
15 employees and their dependents through at least one (1) health
16 benefit plan is entitled to a credit against the taxpayer's state tax
17 liability for the first two (2) taxable years in which the taxpayer
18 makes the health benefit plan available if the following
19 requirements are met:

20 (1) An employee's participation in the health benefit plan is
21 at the employee's election.

22 (2) If an employee chooses to participate in the health
23 benefit plan, the employee may pay the employee's share of
24 the cost of the plan using a wage assignment authorized
25 under IC 22-2-6-2.

26 (b) The credit allowed under this chapter equals the lesser of:

27 (1) two thousand five hundred dollars (\$2,500); or

28 (2) fifty dollars (\$50) multiplied by the number of employees
29 enrolled in the health benefit plan during the taxable year.

30 Sec. 10. (a) An employer may pay or provide reimbursement
31 for all or part of the cost of a health benefit plan made available
32 under section 9 of this chapter.

33 (b) An employer that pays or provides reimbursement under
34 subsection (a) shall pay or provide reimbursement on an equal
35 basis for all full-time employees who elect to participate in the

1 health benefit plan.

2 Sec. 11. (a) If the amount determined under section 9 of this
3 chapter for a taxpayer in a taxable year exceeds the taxpayer's
4 state tax liability for that taxable year, the taxpayer may carry the
5 excess over to the following taxable years. The amount of the
6 credit carryover from a taxable year shall be reduced to the extent
7 that the carryover is used by the taxpayer to obtain a credit under
8 this chapter for any subsequent taxable year. A taxpayer is not
9 entitled to a carryback.

10 (b) A taxpayer is not entitled to a refund of any unused credit.

11 Sec. 12. If a pass through entity does not have state income tax
12 liability against which the tax credit may be applied, a shareholder
13 or partner of the pass through entity is entitled to a tax credit
14 equal to:

15 (1) the tax credit determined for the pass through entity for
16 the taxable year; multiplied by

17 (2) the percentage of the pass through entity's distributive
18 income to which the shareholder or partner is entitled.

19 Sec. 13. To receive the credit provided by this chapter, a
20 taxpayer must claim the credit on the taxpayer's state tax return
21 or returns in the manner prescribed by the department. The
22 taxpayer must submit to the department all information that the
23 department determines is necessary to calculate the credit
24 provided by this chapter and to determine the taxpayer's eligibility
25 for the credit.

26 Sec. 14. (a) A taxpayer claiming a credit under this chapter
27 shall continue to make health insurance available to the
28 taxpayer's employees through a health benefit plan for at least
29 twenty-four (24) consecutive months beginning on the day after
30 the last day of the taxable year in which the taxpayer first offers
31 the health benefit plan.

32 (b) If the taxpayer terminates the health benefit plan before
33 the expiration of the period required under subsection (a), the
34 taxpayer shall repay the department the amount of the credit
35 received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

(1) the first taxable year in which the taxpayer offers the health benefit plan; and

(2) the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

An employee's eligible benefits are not included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the taxable years following the taxable year described in subdivision (2).

(b) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year.

SECTION 4. IC 20-5-2-2, AS AMENDED BY P.L.286-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. In carrying out the school purposes of each school corporation, its governing body acting on its behalf shall have the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment therefor.

(2.5) To appropriate from the general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based upon the school corporation's previous year's average daily membership (as defined in IC 21-3-1.6-1.1) for the purpose of promoting the best

interests of the school corporation by:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(3) To acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for school purposes, including but not limited to buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing of school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchases money contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by outright purchase for cash, or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where such contract, security,

1 retention, or note is permitted by applicable law, by gift, by devise,
 2 by loan, or by lease with or without option to purchase and to
 3 repair, remodel, remove, relocate, and demolish such personal
 4 property. All purchases and contracts delineated under the powers
 5 given under subdivision (3) and this subdivision shall be subject
 6 solely to applicable law relating to purchases and contracting by
 7 municipal corporations in general and to the supervisory control
 8 of agencies of the state as provided in section 3 of this chapter.

9 (5) To sell or exchange any of such real or personal property or
 10 interest therein, which in the opinion of the governing body is not
 11 necessary for school purposes, in accordance with IC 20-5-5, to
 12 demolish or otherwise dispose of such property if, in the opinion
 13 of the governing body, it is not necessary for school purposes and
 14 is worthless, and to pay the expenses for such demolition or
 15 disposition.

16 (6) To lease any school property for a rental which the governing
 17 body deems reasonable or to permit the free use of school
 18 property for:

19 (A) civic or public purposes; or

20 (B) the operation of a school age child care program for
 21 children aged five (5) through fourteen (14) years that operates
 22 before or after the school day, or both, and during periods
 23 when school is not in session;

24 if the property is not needed for school purposes. Under this
 25 subdivision, the governing body may enter into a long term lease
 26 with a nonprofit corporation, community service organization, or
 27 other governmental entity, if the corporation, organization, or
 28 other governmental entity will use the property to be leased for
 29 civic or public purposes or for a school age child care program.
 30 However, if the property subject to a long term lease is being paid
 31 for from money in the school corporation's debt service fund,
 32 then all proceeds from the long term lease shall be deposited in
 33 that school corporation's debt service fund so long as the property
 34 has not been paid for. The governing body may, at its option, use
 35 the procedure specified in IC 36-1-11-10 in leasing property under
 36 this subdivision.

37 (7) To employ, contract for, and discharge superintendents,

1 supervisors, principals, teachers, librarians, athletic coaches
2 (whether or not they are otherwise employed by the school
3 corporation and whether or not they are licensed under
4 IC 20-6.1-3), business managers, superintendents of buildings and
5 grounds, janitors, engineers, architects, physicians, dentists,
6 nurses, accountants, teacher aides performing noninstructional
7 duties, educational and other professional consultants, data
8 processing and computer service for school purposes, including
9 but not limited to the making of schedules, the keeping and
10 analyzing of grades and other student data, the keeping and
11 preparing of warrants, payroll, and similar data where approved by
12 the state board of accounts as provided below, and such other
13 personnel or services, all as the governing body considers
14 necessary for school purposes. To fix and pay the salaries and
15 compensation of such persons and such services. To classify
16 such persons or services and to adopt schedules of salaries or
17 compensation. To determine the number of such persons or the
18 amount of services thus employed or contracted for. To determine
19 the nature and extent of their duties. The compensation, terms of
20 employment, and discharge of teachers shall, however, be subject
21 to and governed by the laws relating to employment, contracting,
22 compensation, and discharge of teachers. The compensation,
23 terms of employment, and discharge of bus drivers shall be
24 subject to and shall be governed by any laws relating to
25 employment, contracting, compensation, and discharge of bus
26 drivers. The forms and procedures relating to the use of computer
27 and data processing equipment in handling the financial affairs of
28 such school corporation shall be submitted to the state board of
29 accounts for approval to the end that such services shall be used
30 by the school corporation when the governing body determines
31 that it is in the best interests of the school corporation while at the
32 same time providing reasonable accountability for the funds
33 expended.

34 (8) Notwithstanding the appropriation limitation in subdivision
35 (2.5), when the governing body by resolution deems a trip by an
36 employee of the school corporation or by a member of the
37 governing body to be in the interest of the school corporation,

1 including but not limited to attending meetings, conferences, or
 2 examining equipment, buildings, and installation in other areas, to
 3 permit such employee to be absent in connection with such trip
 4 without any loss in pay and to refund to such employee or to such
 5 member ~~his~~ reasonable hotel and board bills and necessary
 6 transportation expenses. To pay teaching personnel for time spent
 7 in sponsoring and working with school related trips or activities.

8 (9) To transport children to and from school, when in the opinion
 9 of the governing body such transportation is necessary, including
 10 but not limited to considerations for the safety of such children
 11 and without regard to the distance they live from the school, such
 12 transportation to be otherwise in accordance with the laws
 13 applicable thereto.

14 (10) To provide a lunch program for a part or all of the students
 15 attending the schools of the school corporation, including but not
 16 limited to the establishment of kitchens, kitchen facilities, kitchen
 17 equipment, lunch rooms, the hiring of the necessary personnel to
 18 operate such program, and the purchase of any material and
 19 supplies therefor, charging students for the operational costs of
 20 such lunch program, fixing the price per meal or per food item.
 21 To operate such lunch program as an extracurricular activity,
 22 subject to the supervision of the governing body. To participate in
 23 any surplus commodity or lunch aid program.

24 (11) To purchase textbooks, to furnish them without cost or to
 25 rent them to students, to participate in any textbook aid program,
 26 all in accordance with applicable law.

27 (12) To accept students transferred from other school
 28 corporations and to transfer students to other school corporations
 29 in accordance with applicable law.

30 (13) To levy taxes, to make budgets, to appropriate funds, and to
 31 disburse the money of the school corporation in accordance with
 32 the laws applicable thereto. To borrow money against current tax
 33 collections and otherwise to borrow money, in accordance with
 34 IC 20-5-4.

35 (14) To purchase insurance, ~~or to~~ establish and maintain a
 36 program of self-insurance, **or enter into an interlocal**
 37 **agreement with one (1) or more school corporations to**

1 **establish and maintain a cooperative risk management**
 2 **program under IC 20-5-2.7**, relating to the liability of the school
 3 corporation or its employees in connection with motor vehicles or
 4 property and for any additional coverage to the extent permitted
 5 and in accordance with IC 34-13-3-20. To purchase additional
 6 insurance, ~~or to~~ establish and maintain a program of
 7 self-insurance, **or enter into an interlocal agreement with one**
 8 **(1) or more school corporations to establish and maintain a**
 9 **cooperative risk management program under IC 20-5-2.7**,
 10 protecting the school corporation and members of the governing
 11 body, employees, contractors, or agents of the school corporation
 12 from any liability, risk, accident, or loss related to any school
 13 property, school contract, school or school related activity,
 14 including but not limited to the purchase of insurance or the
 15 establishment and maintenance of a self-insurance program
 16 protecting such persons against false imprisonment, false arrest,
 17 libel, or slander for acts committed in the course of their
 18 employment, protecting the school corporation for fire and
 19 extended coverage and other casualty risks to the extent of
 20 replacement cost, loss of use, and other insurable risks relating to
 21 any property owned, leased, or held by the school corporation.

22 To:

23 (A) participate in a state employee health plan under
 24 IC 5-10-8-6.6;

25 (B) purchase insurance; or

26 (C) establish and maintain a program of self-insurance;

27 to benefit school corporation employees, which may include
 28 accident, sickness, health, or dental coverage, provided that any
 29 plan of self-insurance shall include an aggregate stop-loss
 30 provision.

31 (15) To make all applications, to enter into all contracts, and to
 32 sign all documents necessary for the receipt of aid, money, or
 33 property from the state government, the federal government, or
 34 from any other source.

35 (16) To defend any member of the governing body or any
 36 employee of the school corporation in any suit arising out of the
 37 performance of ~~his~~ **the member's or employee's** duties for or

1 employment with, the school corporation, provided the governing
 2 body by resolution determined that such action was taken in good
 3 faith. To save any such member or employee harmless from any
 4 liability, cost, or damage in connection therewith, including but not
 5 limited to the payment of any legal fees, except where such
 6 liability, cost, or damage is predicated on or arises out of the bad
 7 faith of such member or employee, or is a claim or judgment
 8 based on ~~his~~ **the member's or employee's** malfeasance in office
 9 or employment.

10 (17) To prepare, make, enforce, amend, or repeal rules,
 11 regulations, and procedures for the government and management
 12 of the schools, property, facilities, and activities of the school
 13 corporation, its agents, employees, and pupils and for the
 14 operation of its governing body, which rules, regulations, and
 15 procedures may be designated by any appropriate title such as
 16 "policy handbook", "bylaws", or "rules and regulations".

17 (18) To ratify and approve any action taken by any member of the
 18 governing body, any officer of the governing body, or by any
 19 employee of the school corporation after such action is taken, if
 20 such action could have been approved in advance, and in
 21 connection therewith to pay any expense or compensation
 22 permitted under IC 20-5-1 through IC 20-5-6 or any other law.

23 (19) To exercise any other power and make any expenditure in
 24 carrying out its general powers and purposes provided in this
 25 chapter or in carrying out the powers delineated in this section
 26 which is reasonable from a business or educational standpoint in
 27 carrying out school purposes of the school corporation, including
 28 but not limited to the acquisition of property or the employment or
 29 contracting for services, even though such power or expenditure
 30 shall not be specifically set out herein. The specific powers set out
 31 in this section shall not be construed to limit the general grant of
 32 powers provided in this chapter except where a limitation is set
 33 out in IC 20-5-1 through IC 20-5-6 by specific language or by
 34 reference to other law.

35 SECTION 5. IC 20-5-2.7 IS ADDED TO THE INDIANA CODE AS
 36 **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 37 PASSAGE];

Chapter 2.7. Cooperative Risk Management Programs

Sec. 1. As used in this chapter, "aggregate insurance coverage" means the coverage provided by an insurance contract that:

- (1) is purchased by a cooperative program; and**
- (2) provides excess coverage if the aggregate amount of claims submitted by member school corporations and payable by the self-insurance fund exceeds the total amount of self-insured risk retained by the members in a fiscal year.**

Sec. 2. As used in this chapter, "commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

Sec. 3. As used in this chapter, "cooperative program" means a cooperative risk management program established under this chapter.

Sec. 4. As used in this chapter, "member" refers to a school corporation that enters into an interlocal agreement with another school corporation to establish a cooperative program.

Sec. 5. As used in this chapter, "self-insurance fund" means an actuarially sound fund established by a cooperative program as a reserve to cover self-insured risk retained by the members for losses covered under this chapter and to pay premiums for aggregate insurance coverage and specific insurance coverage required under this chapter.

Sec. 6. As used in this chapter, "specific insurance coverage" means the coverage provided by one (1) or more insurance contracts that:

- (1) are purchased by a cooperative program; and**
- (2) provide excess coverage for a part of a specific claim that exceeds the amount covered by the self-insurance fund.**

Sec. 7. (a) Two (2) or more school corporations may enter into an interlocal agreement under IC 36-1-7 to establish a cooperative risk management program through which the school corporations agree to maintain a program of joint self-insurance to cover certain retained risks and to jointly purchase aggregate insurance coverage and specific insurance coverage, including the following:

- (1) Casualty insurance, including general and professional**

1 liability coverage and student accident insurance.

2 (2) Property insurance.

3 (3) Automobile insurance, including motor vehicle liability
4 insurance coverage and security for motor vehicles owned or
5 operated, and protection against other liability and loss
6 associated with the ownership of motor vehicles.

7 (4) Surety and fidelity insurance coverage.

8 (5) Umbrella and excess insurance coverage.

9 (6) Worker's compensation coverage.

10 (b) A cooperative program established under this chapter is a
11 separate legal entity with the power to:

12 (1) sue and be sued;

13 (2) make contracts; and

14 (3) hold and dispose of real and personal property.

15 Sec. 8. A cooperative program established under this chapter
16 is subject to regulation by the department of insurance created by
17 IC 27-1-1-1.

18 Sec. 9. (a) A cooperative program shall:

19 (1) establish a self-insurance fund with an aggregate limit on
20 the total amount of self-insured risk retained by the
21 members in a fiscal year; and

22 (2) maintain aggregate insurance coverage and specific
23 insurance coverage.

24 (b) A self-insurance fund established under subsection (a) must
25 be funded at the beginning of each fiscal year by a contribution
26 from each member in an amount that reflects the member's share
27 of self-insured risk and other costs of the cooperative program.

28 (c) Annual contributions to the self-insurance fund under
29 subsection (b) must be:

30 (1) determined using generally accepted actuarial standards;

31 (2) set to fund at least one hundred percent (100%) of the
32 self-insured risk retained by the members in a fiscal year
33 plus the other costs of the cooperative program, including
34 premiums for aggregate insurance coverage and specific
35 insurance coverage; and

1 (3) approved by the commissioner.

2 **Sec. 10. (a) An interlocal agreement entered into under section**
3 **7 of this chapter must:**

4 (1) establish the cooperative program as a separate legal
5 entity; and

6 (2) specify the organization, composition, and powers of the
7 governing authority of the cooperative program as required
8 by IC 36-1-7-3.

9 (b) The governing authority of the cooperative program shall
10 adopt bylaws concerning the following:

11 (1) A financial plan setting forth in general terms:

12 (A) the types of risks covered under the cooperative
13 program;

14 (B) the aggregate limit on the total amount of self-insured
15 risk retained by the cooperative program in a fiscal year;

16 (C) the minimum amount of specific insurance coverage
17 and aggregate insurance coverage that must be
18 maintained by the cooperative program; and

19 (D) the procedure for determining each member's annual
20 contribution to the self-insurance fund.

21 (2) A plan of management that provides for:

22 (A) the responsibility of the governing authority with
23 regard to:

24 (i) maintaining the amount of reserves in the
25 self-insurance fund;

26 (ii) disposing of surpluses; and

27 (iii) administering the cooperative program in the event
28 of termination;

29 (B) the basis on which new members may be admitted to
30 and existing members may leave the cooperative program,
31 including a provision specifying that an existing member
32 may not leave the cooperative program unless the
33 member's departure is specifically approved by the
34 commissioner; and

35 (C) other provisions necessary or desirable for the

1 **operation of the cooperative program.**

2 **(c) The following must be submitted to and approved by the**
 3 **commissioner before a cooperative program may commence**
 4 **operations:**

5 **(1) The interlocal agreement described in subsection (a).**

6 **(2) The bylaws described in subsection (b).**

7 **(3) The form and purchase by the cooperative program of any**
 8 **insurance contracts, including contracts for aggregate**
 9 **insurance coverage and specific insurance coverage.**

10 **(4) An accounting, based on generally accepted actuarial**
 11 **standards, of sufficient reserves committed before**
 12 **commencement of operations to pay obligations of the**
 13 **cooperative program.**

14 **(5) Each coverage document form to be issued by the**
 15 **cooperative program.**

16 **(6) Any other information determined necessary by the**
 17 **commissioner.**

18 **(d) If the commissioner does not disapprove the information**
 19 **submitted under subsection (c) earlier than thirty (30) days after**
 20 **the information is submitted, the information is considered**
 21 **approved.**

22 **Sec. 11. (a) A cooperative program shall have an annual audit**
 23 **performed by an independent certified public accounting firm**
 24 **according to guidelines established by the state board of accounts.**

25 **(b) Not later than one hundred eighty (180) calendar days after**
 26 **the close of a cooperative program's fiscal year, the cooperative**
 27 **program must furnish the cooperative program's members with**
 28 **audited financial statements certified by an independent certified**
 29 **public accounting firm.**

30 **(c) Copies of the audit report and certified financial statements**
 31 **required under this section must be provided to the commissioner**
 32 **and the state board of accounts not later than one hundred eighty**
 33 **(180) calendar days after the close of the cooperative program's**
 34 **fiscal year.**

35 **(d) If a cooperative program fails to have the annual audit**

1 performed as required by subsection (a), the commissioner shall
 2 cause the audit to be performed at the expense of the cooperative
 3 program.

4 (e) The working papers of the certified public accountant and
 5 other records pertaining to the preparation of the audited
 6 financial statements required under this section may be reviewed
 7 by the commissioner.

8 **Sec. 12. The assets of a cooperative program must be:**

- 9 (1) treated as a joint investment fund under IC 20-5-11-5;
- 10 and
- 11 (2) invested under IC 5-13-9 in the same manner as other
- 12 public funds.

13 **Sec. 13. Not later than sixty (60) calendar days after the**
 14 **beginning of a cooperative program's fiscal year, the governing**
 15 **authority shall submit the following to the commissioner:**

- 16 (1) A copy of the bylaws adopted by the cooperative program.
- 17 (2) A copy of each coverage document form issued by the
- 18 cooperative program.
- 19 (3) A copy of the insurance contracts purchased by the
- 20 cooperative program, including contracts for aggregate
- 21 insurance coverage and specific insurance coverage.
- 22 (4) A copy of the interlocal agreement.

23 **Sec. 14. (a) If a cooperative program fails to comply with the**
 24 **requirements of this chapter, the commissioner shall issue a**
 25 **notice of noncompliance to the cooperative program.**

26 (b) Not later than thirty (30) calendar days after a cooperative
 27 program receives a notice of noncompliance under subsection (a),
 28 the cooperative program shall file with the commissioner a written
 29 request for time to restore compliance and a plan to restore
 30 compliance.

31 (c) The commissioner, on receiving the written request and
 32 plan to restore compliance filed under subsection (b), may allow
 33 a period of one (1) year or less, as determined by the
 34 commissioner, during which the cooperative program may restore
 35 compliance.

1 (d) If a plan to restore compliance is:

2 (1) not filed under subsection (b);

3 (2) filed under subsection (b) and not approved by the
4 commissioner; or

5 (3) filed under subsection (b) and approved by the
6 commissioner, and at the end of the period determined by
7 the commissioner under subsection (c) the cooperative
8 program is not in compliance with this chapter;

9 the commissioner may grant additional time to comply, or the
10 commissioner may suspend, limit, or terminate the authority of
11 the cooperative program to do business in this state.

12 (e) A cooperative program is subject to IC 27-9.

13 (f) A cooperative program shall be considered a member
14 insurer for purposes of IC 27-6-8.

15 Sec. 15. (a) Motor vehicle coverage provided by a cooperative
16 program must provide the ability for a member to respond in
17 damages for liability arising out of the ownership, maintenance,
18 or use of a motor vehicle in amounts at least equal to the amounts
19 required under IC 9-25-4.

20 (b) A member that participates in the motor vehicle coverage
21 provided by a cooperative program is considered to meet the
22 financial responsibility requirements set forth in IC 9-25-4, and
23 an application for a certificate of self-insurance under
24 IC 9-25-4-11 is not required.

25 Sec. 16. Information regarding the:

26 (1) portion of funds; or

27 (2) liability reserve;

28 established by a cooperative program to satisfy a specific claim or
29 cause of action is confidential and is not subject to subpoena or
30 order to produce, except in a supplementary or an ancillary
31 proceeding to enforce a judgment. This section does not prohibit
32 the commissioner from obtaining the information described in this
33 section.

34 Sec. 17. The department of insurance may adopt rules under
35 IC 4-22-2 to implement this chapter.

SECTION 6. IC 21-2-5.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The self-insurance fund may be used to provide monies for the following purposes:

(1) the payment of any judgment rendered against the school corporation, or rendered against any officer or employee of the school corporation for which the school corporation is liable under IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5, IC 34-4-16.6, or IC 34-4-16.7 before their repeal);

(2) the payment of any claim or settlement for which the school corporation is liable pursuant to IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5, IC 34-4-16.6, or IC 34-4-16.7 before their repeal);

(3) the payment of any premium, management fee, claim, or settlement for which the school corporation is liable pursuant to any federal or state statute including but not limited to payments pursuant to IC 22-3 and IC 22-4; ~~or~~

(4) the payment of any settlement or claim for which insurance coverage is permitted under IC 20-5-2-2(14); ~~or~~

(5) the payment of a contribution to the self-insurance fund of a cooperative risk management program under IC 20-5-2.7-9.

SECTION 7. IC 27-6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** This chapter applies to all kinds of direct insurance except:

(1) life, annuity, health, or disability insurance;

(2) mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;

(3) fidelity or surety bonds, or any other bonding obligations;

(4) credit insurance, vendors' single interest insurance, or collateral protection insurance or similar insurance with the primary purpose of protecting the interests of a creditor arising out of a creditor-debtor transaction;

(5) warranty or service contract insurance;

(6) title insurance;

(7) ocean marine insurance;

(8) a transaction between a person or an affiliate of a person and

an insurer or an affiliate of an insurer that involves the transfer of investment or credit risk without a transfer of insurance risk;
 (9) insurance provided by or guaranteed by a government entity;
 and
 (10) insurance written on a retroactive basis to cover known losses for which a claim has already been made and the claim is known to the insurer at the time the insurance is bound.

(b) This chapter applies to coverage provided under a cooperative program established under IC 20-5-2.7. For purposes of this chapter, a cooperative program is considered to be a member insurer."

Page 4, line 15, delete "The insurer will include in its enrollment".

Page 4, delete line 16.

Page 7, between lines 7 and 8, begin a new paragraph and insert:

"(f) An insurer that issues a policy described in this section shall include in the insurer's enrollment materials information concerning the manner in which a person insured under the policy may obtain a certificate described in subsection (c)(8).

SECTION 9. IC 27-9-1-1, AS AMENDED BY P.L.5-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Proceedings under this article apply to the following:

(1) All insurers who are doing, or who have done, insurance business in Indiana, and against whom claims arising from that business may exist.

(2) All insurers who purport to do insurance business in Indiana.

(3) All insurers who have insureds resident in Indiana.

(4) All other persons organized or in the process of organizing with the intent to do an insurance business in Indiana.

(5) All nonprofit service plans, fraternal benefit societies, and beneficial societies.

(6) All title insurance companies.

(7) All health maintenance organizations under IC 27-13.

(8) All multiple employer welfare arrangements under IC 27-1-34.

(9) All limited service health maintenance organizations under IC 27-13-34.

(10) All mutual insurance holding companies under IC 27-14.

1 **(11) All cooperative programs established under**
 2 **IC 20-5-2.7."**

3 Page 7, delete lines 16 through 24, begin a new paragraph and insert:

4 **"(c) A health maintenance organization shall include in the**
 5 **health maintenance organization's enrollment materials**
 6 **information concerning the manner in which a subscriber may**
 7 **obtain an evidence of coverage."**

8 Page 7, line 39, delete "The" and insert "A".

9 Page 7, line 39, delete "will" and insert "**shall**".

10 Page 7, line 40, delete "its" and insert "**the limited service health**
 11 **maintenance organization's**".

12 Page 7, line 40, delete "on how to" and insert "**concerning the**
 13 **manner in which a subscriber may**".

14 Page 7, line 40, after "obtain" insert "**an**".

15 Page 7, after line 41, begin a new paragraph and insert:

16 **"SECTION 12. [EFFECTIVE JULY 1, 2004] IC 6-3-1-3.5, as**
 17 **amended by this act, applies only to taxable years beginning after**
 18 **December 31, 2004.**

19 **SECTION 13. [EFFECTIVE JULY 1, 2004] IC 6-3.1-25, as added**
 20 **by this act, applies only to taxable years that begin after**
 21 **December 31, 2004.**

22 **SECTION 14. An emergency is declared for this act."**

23 Renumber all SECTIONS consecutively.

(Reference is to SB 251 as reprinted January 28, 2004.)

and when so amended that said bill do pass.

Representative Fry